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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,195	04/07/2006	David D. Sembritzky	0837RF-H562	7077
38441 7590 04/14/2009 LAW OFFICES OF JAMES E. WALTON, PLLC 1169 N. BURLESON BLVD. SUITE 107-328 BURLESON, TX 76028				
EXAMINER				
SALONTE, BAYAN				
ART UNIT		PAPER NUMBER		
4151				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/575,195

Applicant(s)

SEMBRITZKY ET AL.

Examiner

BAYAN SALONE

Art Unit

4151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04/07/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 April 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CI/CD)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Figures 3A and 3B, reference number 49. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b), are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hyatt et al (US Patent No. 5,398,394), in view of Woyton (US Patent No. 4,553,335), in further view of Price (US Patent No. 3,938,234).

Regarding claim 1 Hyatt et al discloses an axial swage alignment tool (10) for swaging together a tube (14) and a fitting (12) having a swaging collar (20), the axial swage alignment tool (10) comprising:

a housing (22) adapted to engage the fitting (12); a ram member (34) adapted to engage the swaging collar (20); and a bridge member (50, 52) for maintaining the orientation of the tube relative to the fitting during swaging (Col 4, Lines 38-50 and 62-68, Col 5, Lines 1-5, Fig. 1, #'s 10, 12, 14, 20, 22, 34, 50 and 52).

Regarding claim 2 Hyatt et al discloses the axial swage alignment tool (10) according to claim 1, wherein the bridge member (50, 52) is U-shaped, having curved contact surfaces for mating with the exterior surfaces of the tube (Col 5, Lines 11-14 and Lines 20-22, Figs. 1 and 4, #'s 50 and 52).

Regarding claim 3 Hyatt et al discloses the axial swage alignment tool according to claim 2, wherein the contact surfaces are adapted to be temporarily adhered to the exterior surfaces of the tube and the fitting (Col 6, Lines 8-30, Figs. 2 and 3, #'s 12, 14, 18, 20, 50, 52, and 70).

Regarding claim 4 Hyatt et al discloses the axial swage alignment tool according to claim 1 further comprising:
a means for actuating the ram member (34), (Col 6, Lines 20-30, Figs. 2 and 3, #'s 10, 20, 22, 28, 34, 42, 50, and 52).

Regarding claim 5 Hyatt et al discloses the axial swage alignment tool according to claim 4, wherein the means for actuating the ram member (34) is a hydraulic power source (Col 2, Lines 44-47).

Regarding claims 1-5 Hyatt et al does not disclose the bridge member being configured for adhesion to the exterior surfaces of the tube and the fitting; or having a curved contact surface for mating with the exterior surface of the fitting.

Regarding claims 1-5, in the same field of endeavor Woyton discloses a bridge member (20) comprising:

a first end portion (64, 66) for matingly contacting the metal tube (28); and a second end portion (64, 66) for matingly contacting the fitting (26), (Col 4, Lines 29-43, Figs. 1-3 and 16, #'s 20, 26, 28, 36, 38, 60, 62, 64 and 66). It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosures of Woyton with the disclosure of Hyatt for the benefit of making a tool with a bridge member capable of simultaneously engaging the metal tube and fitting.

The combination still lacks a method of adhering the exterior surfaces of a metal tube and fitting as claimed.

Also in the same field of endeavor, Price discloses a method of adhering the exterior surfaces of a tube (11, 12) and fitting (14), (Col 2, Lines 6-16, Figs. 1-5, #'s 11, 12, 14) for the benefit of adhering the bridge member to the metal tube and fitting making it easier to hold the metal tube and fitting in place while the tube was swaged into a desired orientation. It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Price with the disclosure of the previous combination for the benefit of adhering the bridge member to the metal tube and fitting making it easier to hold the metal tube and fitting in place while the tube was swaged into a desired orientation.

Although the previous art combination does not explicitly teach configuring the bridge member for adhesion to the exterior surfaces of the tube and the fitting, the aforementioned art combination requires that the bridge member be configured for

adhesion to the exterior surfaces of the tube and fitting in order for the tube and fitting to be adhered to the bridge member.

5. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hyatt et al (US Patent No. 5,398,394), in view of Woyton (US Patent No. 4,553,335), in further view of Price (US Patent No. 3,938,234), as applied to 4 above, in further view of Jones, Jr. (US Patent No. 3,540,246).

Regarding claim 6, the previous art combination remains as applied above, and Hyatt et al further discloses an axial swage alignment tool according to Claim 4.

Regarding claim 6, the previous combination (see Hyatt et al) does not disclose an axial swage alignment tool wherein the means for actuating the ram member is an electro-mechanical power source.

For the purpose of the art rejection above, Jones, Jr. is in the same field of endeavor and discloses a means for actuating a ram member (14) using an electro-mechanical power source (Col 2, Lines 32-36, Fig. 1, # 14). It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Jones, Jr. with the art combination of Hyatt, Woyton and Price for the benefit of providing an additional power source for the swage tool.

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hyatt et al (US Patent No. 5,398,394), in view of Woyton (US Patent No. 4,553,335).

Regarding claims 7 and 8 Hyatt et al discloses a bridge member (50, 52) for use in swaging together a metal tube (14) and a fitting (12) comprising:
a first end portion having a curved contact surface for matingly contacting the metal tube (14); and a second end portion having a curved contact surface (Col 5, Lines 11-14 and Lines 20-22, Figs. 1 and 4, #'s 50 and 52).

Regarding claim 7 Hyatt et al does not disclose a fitting having a swaging flange and a bridge member comprising:
a second end portion having a contact surface for matingly contacting the fitting; and a cross piece for connecting the first end portion to the second end portion.

Regarding claim 8 Hyatt et al does not disclose a bridge member wherein the second end portion is configured to mate with the swaging flange.

For the purpose of the art rejection above Woyton is in the same field of endeavor and discloses a fitting (26) having a flange (36, 38) and a bridge member (20) comprising: a first end portion (64, 66) for matingly contacting the metal tube (28); a second end portion (64, 66) for matingly contacting the fitting (26); a cross piece (100 for connecting the first end portion to the second end portion (Col 4, Lines 29-43, Figs. 1-3 and 16, #'s 20, 26, 28, 36, 38, 60, 62, 64 and 66); wherein the second end portion is configured to mate with the flange (Col 4, Lines 36-38, Figs. 1-3, #'s 20, 26, 36, 38, 60, 62, 64, and 66). It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Woyton with the disclosure of Hyatt for the benefit of simultaneously engaging both the metal tube and fitting. The aforementioned art combination would make it easier for the metal tube and fitting to be held together, while the tube was swaged into a desired orientation.

8. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hyatt et al (US Patent No. 5,398,394), in view of Woyton (US Patent No. 4,553,335).

Regarding claim 9, Hyatt et al discloses a method of swaging together a metal tube and a fitting having a swaging collar comprising the steps of:
inserting the metal tube into the fitting such that the metal tube is selectively aligned both axially and rotationally with the fitting; and providing a bridge member having a first end and a second end, the first end having a contact surface configured

to, mate with the exterior surface of the metal tube; and forcing the swaging collar over the fitting.

Regarding claim 9 Hyatt et al does not disclose the bridge member's second end having a contact surface configured to mate with the exterior surface of the fitting; adhering the contact surface of the first end to the metal tube; adhering the contact surface of the second end to the fitting; removing the bridge member from the metal tube and the fitting.

In the same field of endeavor, Woyton discloses a bridge member (20) comprising: a first end portion (64, 66) for matingly contacting the metal tube (28); and a second end portion (64, 66) for matingly contacting the fitting (26), (Col 4, Lines 29-43, Figs. 1-3 and 16, #'s 20, 26, 28, 36, 38, 60, 62, 64 and 66). It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Woyton with the disclosure of Hyatt for the benefit of simultaneously engaging the metal tube and the fitting. The aforementioned art combination would provide an easier method of holding the metal tube and the fitting together; ensuring that the tube was secure and could be swaged into the desired orientation.

Note, the previous art combination does not disclose removing the bridge member from the metal tube and the fitting. Although the aforementioned art combination does not explicitly teach removing the bridge member from the metal tube and fitting, it would have been obvious to a person of ordinary skill in the art at the time of the invention to remove the bridge member from the metal tube and fitting once the metal tube had been swaged into a desired orientation.

9. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hyatt et al (US Patent No. 5,398,394), in view of Woyton (US Patent No. 4,553,335) as applied to Claims 9 above, in further view Price (US Patent No. 3,938,234), in still further view of Yamanaka (US Patent No. 6,059,171).

Regarding claim 10, the previous art combination remains as previously applied, but does not teach claim 10.

Regarding claim 10, Price discloses a method of adhering the exterior surfaces of a tube (11, 12) and fitting (14), (Col 2, Lines 6-16, Fig. 1, #'s 11, 12, 13, 14), and it would have been obvious to one of ordinary skill in the art at the time of the invention to so include in the previous combination for the benefit of adhering the tube and fitting into a desired configuration.

Regarding claim 10 the combination with Price does not disclose a method according to Claim 9, wherein the steps of adhering the contact surfaces of the first and second ends to the metal tube and fitting are achieved by using a cyanoacrylate adhesive.

In the same field of endeavor, Yamanaka discloses adhering the exterior surfaces of metal components (1 and 33) using a cyanoacrylate adhesive (Col 3, Lines 20-27, Fig. 3, #'s 1 and 33). It would have been obvious to a person of ordinary skill in the art at the time of the invention to combine the disclosure of Yamanaka with the disclosure of the aforementioned art combination for the benefit of using an adhesive that produces a secure bond when applied to metal.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patent Examiner whose telephone number is (571) 270-7739. The examiner can normally be reached on M-F, 8am-5:00pm (alternate Fridays off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Ortiz can be reached on (571) 272- 1206. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA).

/Bayán Salone/

/Angela Ortiz/

Supervisory Patent Examiner, Art Unit 4151